

FILED

April 14 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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6 Attorneys for David C. Brinley

7 DA 10-0189

8 **IN THE SUPREME COURT OF MONTANA**

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12 IN RE MARRIAGE OF:

13 DAVID CARL BRINLEY,
Petitioner

14 and

15 IDA LOUISE BRINLEY,
16 Respondent

Cause No.: DR 2006-103
Fergus County

Judge: Wayne E. Phillips

NOTICE OF APPEAL

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STATE OF MONTANA

9 NOTICE is given that David Carl Brinley, the Appellant above named and who is
10 the petitioner in that cause of action filed in the Tenth Judicial District, in and for the
11 County of Fergus, as Cause No. DR 2006-103, hereby appeals to the Supreme Court of the
12 State of Montana from the final judgment or order entered in such action on the 17th day of
13 February, 2010.

14 **THE APPELLANT FURTHER CERTIFIES:**

15 I. That this appeal is not subject to the mediation process required by M. R. App. P. 7.
16 If subject to mediation, the money judgment being sought is not less than \$5,000.


2. That this appeal is not an appeal from an order certified as final under M. R. Civ. P. 54(b).

3. That the notice required by M. R. App. P. 27 has been or will be given, within 11 days of the date hereof, to the Supreme Court and to the Montana Attorney General with respect to a challenge to the constitutionality of any act of the Montana Legislature.

4. That all available transcripts of the proceedings in this cause have been ordered from the court reporter contemporaneously with the filing of this notice of appeal. If all available transcripts have not been ordered, that Appellant has complied with the provisions of M. R. App. P. 8(3) contemporaneously with the filing of this notice of appeal.

5. That included herewith is the filing fee prescribed by statute, or the affidavit without payment of the required filing fee prescribed in the Appendix of Forms as Form 3.

Dated this 15th day of April, 2010.


David L. Wright, Attorney for Appellant
Appearing Pro Hac Vice

DECLARATION

My name is David L. Wright, attorney for David Carl Brinley, Appellant.

This declaration is made to explain why the Notice of Appeal was not filed within 30 days of the date of the order dated February 17, 2010.

I did not receive a copy of the February 17, 2010 order, and had no idea it had been signed. The first indication I had that the order had been signed was a document from opposing counsel requesting corrections to the order. That document from opposing counsel was dated March 16, 2010, and was received at my California office several days later.

I declare under penalty of perjury under the laws of the State of Montana that the foregoing is true and correct.

Dated: April 15, 2010

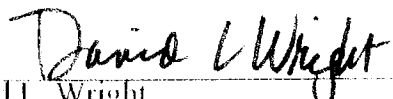
David L. Wright
Attorney for Appellant, Pro Hac Vice

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2 **CERTIFICATE OF SERVICE**

3 I hereby certify that I have filed a true and accurate copy of the foregoing NOTICE
4 OF APPEAL, with the Clerk of the Montana Supreme Court; and that I have served true
5 and accurate copies of the foregoing NOTICE OF APPEAL upon the Clerk of the District
6 Court, each attorney of record, and each party not represented by an attorney in the above-
7 referenced District Court action, as follows:

8 Dated this 15th day of April, 2010.

9
10 Jeffrey A. Simkovic
11 BILLINGS LEGAL, PLLC
12 20 North 29th Street
13 Billings, MT 59101

14 
15 David L. Wright
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